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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,807	07/19/2005	Martinus Johannes Nicolaas Jacobs	4662-14	9371
23117	7590	10/05/2006	EXAMINER DIXON, MERRICK L	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			ART UNIT 1774	PAPER NUMBER

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/532,807

Applicant(s)

JACOBS ET AL.

Examiner

Merrick Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



MERRICK DIXON  
PRIMARY EXAMINER

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/00766 patent.

The cited reference teaches the claimed invention including a process for making ballistic-resistant molded article comprising stacking layers of unidirectional orientating fibers together, and then compressing same stack at elevated temperature and pressure-page 3, lines 33- page 4, line 5; page 1, lines 9-22; page 4, lines 15-20; page 7, lines 26-33; page 8, lines 34 page 9, line 15; page 10, lines 1-6.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/00766 Patent in view of Li et al ( US 4953234).

The primary reference substantially teaches the claimed process but fails to expressly teach the aspect of performing the compression/heating step for a specific duration. The secondary reference to Li et al, however teaches that it is known in the art to compress/heat ballistic articles such as taught by the primary reference for a specific

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duration- col 4, lines 17-21. it would have been obvious to one of ordinary skill in the art at the time the invention is made to combine the teachings of Li et al and perform the patented compression/heating of its stacked layers for such claimed duration, in the absence of unexpected results for reasons including the fact it is notoriously well known in the art to vary such parameters as time during ballistic article production- col 4, lines 15-17 of the secondary reference. Concerning claim 2, the claimed limitation is directed to article limitations and are of no patentable consequences to the instant question for patentability which must be manipulatively distinct.

5. Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/00766 Patent.

The patent teaches the claimed ballistic-resistant molded article comprising stacked layers of unidirectional oriented reinforcing fibers of at least 30% plastic matrix and possessing similarly claimed SEA properties-page 2, lines 25-34; page 7, lines 34-37; page 6, lines 30- page 7, line 20; page 3, lines 33- page 4, line 5; page 4, lines 15-30;page 7, lines 26-33;page 10, lines 1-6. see entire reference.

Concerning claim 2, it is submitted the resulting article of the reference would possess similar acoustic damping measurements as such would be inherent.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gary et al(US 5124195) and Robert et al(US 3743561) are cited

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of interest for their respective teachings as set forth and additionally to show the state of the art.

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Applicant's arguments filed 7-6-06 have been fully considered but they are not persuasive. Applicants argue that the invention is novel in that improvements in SEA at elevated temperature is achieved. The examiner submits the patented and cited reference produce such enhancement/improvement, in the absence of unexpected results. Applicants further argue that claims 1 and 5 requires the material to possess specific modulus. Applicants further argue the required polyurethane has modulus of at least 3 Mpa. The examiner respectfully remind applicants that the claim does not recite the argued limitation. The examiner further respectfully remind applicants the in process claims, as is the instant case, article limitations are not given patentable weight unless it manipulatively affect said process- Ex parte Pfeiffer , 1962 CD 408(1961). Additionally, it is well known in the art to select particular material on the basis suitability- In re Leshin, 125 USPQ 416. the references, as offered by the examiner, indeed teach the claimed invention for reasons articulated in the previous office action and as set forth above.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 ( November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

**personal fax number should be in draft-forms and will be treated as informal.**

**Same facsimiles will not be entered in the related applications unless otherwise agreed and noted by the examiner.**

**The fax number for all other fascimile is 571-273-8300.**

Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

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Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays, Wednesdays and Thursdays, between 12 noon and 8 PM, eastern time .

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a stylized, flowing script.

Merrick Dixon

Primary Examiner

Group 1700